IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(*Special Original Jurisdiction*)

THURSDAY, THE TWENTITHIRD JUNE

TWO THOUSAND AND FIVE

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P R E S E N T

THE HON'BLE MR. JUSTICE ELIPE DHARMA RAO

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WRIT PETITION No.25718 of 2000

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Between

M/s. INDO NATIONAL LIMITED, NELLORE,

Represented by Mr.TV.Subba Rao, s/o. Ramakoti, age 51 years,

Chief General Manager (Operations),

R/o. Pattipati Plaza, 4th floor, 35, Numgambakkam High Road,

Chennai-600 034 INDIA. ….. PETITIONER

A N D

1. The Joint Collector, Nellore, Nellore district.

2. The Superintending Engineer, NH-5 (R & B), Nellore,

Nellore district.

3. The District Collector & Magistrate, Nellore,

Nellore district. ….. RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus or any other appropriate writ direction or directions to direct the respondents to act in accordance with law and not to demolish the compound wall and other structures of the petitioner without following due process of law and pass such other order or orders as the High Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.VEDULA SRINIVAS

Counsel for the Respondents: GOVT.PLEADER FOR REVENUE

The court made the following : (Order follows 2nd page)

O R D E R

M/s. Indo National Limited, Nellore, represented by its Chief General Manager (Operations) filed this writ petition seeking to direct the respondents to act in accordance with law and not to demolish the compound wall and other structures, without following due process of law.

The petitioner is a factory engaged in the manufacture of Electric Dry Cell Batteries since 1973 in collaboration with Matsushita Electronic Company, Janpan, under the brand name of NIPPO. It has two units; one at Nellore and another at Tada of Nellore district. The Petitioner Unit at Nellore is located in the premises admeasuring Acs:13-13 abutting national highway no.5. The said land was acquired

by the petitioner by way of assignment from the Government and has been paying property tax, nala tax etc. It has got its factory and other buildings situate inside the compound wall within the said radius of land. There are nearly 800 persons employed in both the units of the petitioner-factory.

The petitioner-factory submits that opposite to the compound wall and on the other side of national highway, there is a stretch of open land in which housing pattas have been granted to several persons by the authorities. There is a small temple outside the factory wall and on the other side of the road there is a small temple. The existing national highway itself is of 100 feet wide and already a bypass road of 100 feet exists, which diverts heavy traffic even at the entry point of Nellore town. There is no question of any traffic congestion taking place and more particularly infront of the factory compound wall of the petitioner. The existing road itself is sufficient to cater to the need of traffic and there is no need for any road expansion.

The petitioner further submits that on 07-12-2000 the second respondent along with his subordinates visited the factory premises of the petitioner and caused markings at the cycle stand, which is situate inside the compound of the petitioner. On 15-12-2000 the officials of R & B and Revenue Department also came at the instance of the first respondent and caused markings at the temple, which is situate on the southern side of the compound wall. Thereafter on 18-12-2000 the officials of R & B Department came and measured the road markings from compound wall of the petitioner.

While things stood thus, the officials of the petitioner-factory asked the purpose of the visits of the respondents and the markings made by them, they were replied that

the compound wall of the petitioner-factory is going to be demolished to the extent of 18 feet inside the compound wall and road will be laid. If the compound wall of the petitioner-factory is going to be demolished to the extent of 18 feet inside the compound wall, it will result in demolition of Welfare Centre, Security Office, Cycle Stand and also well-developed greenery of the petitioner. Therefore, the petitioner-factory filed this writ petition to declare the action of the respondents as illegal and arbitrary.

In the counter-affidavit filed by the respondents, it is submitted that during the year 1972 and 1977, the petitioner-factory has been allotted an extent of Acs:13-02 cents of land on payment of market value i.e., @ Rs.4,200/- per acre as per G.O.Ms.No.1230, Revenue, Dated 27-11-1972 and G.O.Ms.No.216, Revenue (A) Department, dated 07-3-1977. It is submitted that in compliance of the orders passed by Lokayukta in complaint no.542/95/B1, dated 6-7-2000, which was filed by Mr.A.Rami Reddy and others, the Mandal Surveyor, Nellore surveyed the land in sy.no.2039, which is classified as GNT Road Poramboke of Nellore bit. Thereafter, a list of encroachers in the said survey number which leads from 166/0 to 168/0 of Madras-Calcutta road under the close supervision of Asst.Director, Survey and Land Records, Nellore, was prepared and sent the list of 53 encroaches in survey no.2039 to the Executive Engineer, R & B, NH Circle, Nellore for taking action in compliance with the said orders of Lokayuktha, Hyderabad.

The respondents submit that during the course of survey made by the Mandal Surveyor, Nellore, in the month of December 2000, it is noticed that after the

allotment of land measuring Acs:13-02 cents in survey nos.2028, 2031 to 2034 and 2038, the petitioner-factory encroached the Government land (poramboke) in an extent of 2241 sq.feet in survey no.2039. Therefore, the contention of the petitioner-factory is not correct that it did not encroach any land. As a matter of fact, the encroachment of Government land (poramboke) in survey no.2039 made by the petitioner-factory is causing inconvenience to the vehicular traffic and the petitioner-factory has no right file this writ petition, as the land belongs to the Government. Therefore, the petitioner-factory is liable to be evicted under due procedure of law; namely, the Land Encroachment Act.

As seen from the facts and circumstances of the case and after going through the averments made in the affidavit as well as counter-affidavit, no notice was issued to the petitioner-factory calling upon it as to why the petitioner-factory should not be evicted under the Land Encroachment Act, in compliance with the orders passed by the Lokayukta in complaint no.542/95/B1, dated 6-7-2000, for having encroached the Government land in an extent of 2241 sq.feet in sy.no.2039 by the petitioner-factory. If the contention of the respondents is that the petitioner-factory has encroached 2241 sq.feet of Government land (poramboke) in the said survey number during the course of survey made by the Mandal Surveyor, Nellore, in December 2000, then the petitioner-factory is liable for eviction under due process of law. The writ petition is devoid of merits and fails. Consequently, the interim order dated 23-4-2001 passed by this court in WPMP.No.32788 of 2000 granting *statusquo* stands dissolved. By encroaching the Government land (Poramboke), the petitioner-factory cannot stall the road widening works policy of the Government on

the ground that the demolition of its compound wall will oust its Welfare Centre, Security Office, Cycle Stand and also well-developed greenery. However, in view of increase in vehicular traffic, in the public interest, if the respondents want to evict the petitioner-factory from the aforesaid Government land, they are at liberty to take action in contemplation with due process of law within four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

JUNE 23rd, 2005. ----------

I S L. **ELIPE DHARMA RAO, J**.